

When Recorded Return to:
Flood Control District
3335 West Durango
Phoenix, Arizona 85009

A.G. Contract KR87-3501
ECS File No. IGA-87-31
Project RAM-600-1-507
Price Road Drain Tunnel

H 0821 04C

INTERGOVERNMENTAL AGREEMENT
PRICE DRAIN
IGA FCD-87004

This Agreement is between the Flood Control District of Maricopa County, a municipal corporation and political subdivision of the State of Arizona (hereinafter called DISTRICT), the State of Arizona, acting by and through the Arizona Department of Transportation (hereinafter called STATE), the City of Chandler, a municipal corporation of the State of Arizona (hereinafter called CHANDLER), and the City of Mesa, a municipal corporation of the State of Arizona (hereinafter called MESA).

This Agreement shall become effective as of the date it is filed with the Secretary of State pursuant to Arizona Revised Statutes 11-952, as amended.
DATE FILED WITH THE SECRETARY OF STATE January 25, 1988

STATUTORY AUTHORIZATION

1. The STATE is empowered by Arizona Revised Statutes 28-108 to enter into this Agreement.
2. The DISTRICT is empowered by Arizona Revised Statutes 48-3603 to enter into this Agreement.
3. CHANDLER and MESA are each empowered by Arizona Revised Statutes 11-952, as amended, to enter into this Agreement.

BACKGROUND

4. The DISTRICT has been working with the municipalities of CHANDLER and MESA to find an outlet for stormwaters along the path of the historic Gila Drain, and this investigation ultimately evolved into the Gila Drain Western Canal Alternatives Conceptual Design Study. The STATE is building the Price/Pima Expressway in eastern Maricopa County and must provide drainage facilities in connection with that Expressway.
5. It is proposed that a joint use drainage facility, known as the Price Drain, be constructed from Carriage Lane Basin in MESA to the Salt River along the Price Expressway and Pima Freeway alignment including a connection to the Broadway Road Storm Drain. This Price Drain will provide drainage for the Pima Freeway and the Price Expressway north of Carriage Lane and provide stormwater discharge capacity for the municipalities of CHANDLER and MESA; however, this agreement provides for the Price Drain to accept additional sources of flows from the STATE and the municipalities of CHANDLER and MESA as allocated in Paragraph 16. The DISTRICT proposes to share in the construction costs of the Price Drain. The joint use drainage facility will be cost shared on the basis of the relative costs of the STATE and the DISTRICT, with the cities of CHANDLER and MESA, each building a system alone. The costs of this Price Drain will be shared by the STATE, the DISTRICT, CHANDLER, and MESA.

PURPOSE

6. The purpose of this Agreement is to define the responsibilities of the STATE, the DISTRICT, CHANDLER, and MESA for establishing the Price Drain project, cost sharing in its design, construction, and construction management, and conducting operation and maintenance.

TERMS OF AGREEMENT

7. The STATE agrees to design and construct a joint use drainage facility utilizing consulting services and contractors called the Price Drain consisting of a bored tunnel with ancillary channels, outlets, collector pipelines, drop shafts and connecting pipelines from the vicinity of the Superstition Freeway at Price Road to an outlet into the Salt River, including headworks and a storm drain from the existing Carriage Lane detention basin, connection to MESA's existing Broadway Road Storm Drain and connection to the Superstition Freeway Channel for drainage from MESA. The Price Drain shall have a peak capacity of 2136 cfs at its outlet. The municipalities are allowed to discharge a total flow of 230 cfs at peak time from the Carriage Lane Basin with CHANDLER allotted 100 cfs, MESA 30 cfs, and 100 cfs unallotted. In addition, MESA may discharge 130 cfs into the Price Drain in the vicinity of Broadway Road and uncontrolled flows from the Superstition Freeway Channel. The DISTRICT will not discharge any flows into the Price Drain.

CHANDLER - 100
MESA - 30
FCD - 50
ADOT - 50

8. The STATE, the DISTRICT, CHANDLER, and MESA agree to share in the costs of the Price Drain. The costs to be shared include the design, right-of-way acquisition for the Drain outlet, construction, construction management, construction claim costs, and judgments resulting from construction claims unless the claim is chargeable to and paid by consultants or contractors. The Price Drain joint use drainage facility, originally estimated to cost \$37.4 million, may increase in cost in excess of 20 percent to an estimated \$47.4 million (maximum anticipated increase of 27 percent).

9. The costs of the Price Drain joint use drainage facility will be cost shared as follows:

9.1. The STATE will pay 68.5%, estimated to be \$32.48 million.

$\frac{31}{47.4} = 65.4\%$

9.2. The DISTRICT will pay 31.5%, estimated to be \$14.92 million

9.3. The City of CHANDLER will reimburse the DISTRICT 6.19% of the overall project cost, not to exceed \$2.78 million (the original estimated amount of \$2.32 million plus 20 percent increase for unknown channel discharge conditions).

OR ~~27.59%~~ OF DISTRICT COST
1/90 19.65%

9.4. The City of MESA will reimburse the DISTRICT 8.26% of the overall project cost, not to exceed \$3.71 million (the original estimated amount of \$3.09 million plus 20 percent increase for unknown channel discharge conditions).

OR ~~36.82%~~ OF DISTRICT COST
1/90 ~~27.59%~~
26.22%

10. The STATE agrees to the following:

10.1. Bill the DISTRICT quarterly for the DISTRICT's and the municipalities' proportional share of costs for the Price Drain.

CHANDLER + MESA
45.87%

10.2. During design, hold briefings for the DISTRICT and the municipalities at 30%, 60%, and 90% completion points.

10.3. To submit six sets of the construction plans and specifications to the DISTRICT for transmittal to the municipalities.

10.4. To obtain adequate rights-of-way necessary for construction and maintenance. Title to any such rights-of-way shall be retained by the STATE.

10.5. To act as contracting agency and perform all services necessary to administer the construction including but not limited to the following:

10.5.1. Issue invitations for bids, receive, protect and open bids; determine the lowest responsible and qualified bidder; award the contracts; and issue the notice to proceed.

10.5.2. Provide for the services of construction surveying, inspection, quality control and testing.

10.5.3. Provide for facilities and personnel to carry out the necessary work of contract administration.

10.5.4. Pay the contractors as provided in the contracts.

10.5.5. To coordinate the final inspections with the DISTRICT, CHANDLER, and MESA to determine whether all work has been performed in accordance with contractual requirements.

10.5.6. To take reasonable and necessary action to dispose of all contractual and administrative issues arising out of any contracts awarded under this Agreement. This includes, but is not limited to, disputes, claims, protests of award, source evaluation and lawsuits. The STATE will advise and consult with the DISTRICT, CHANDLER, and MESA for any of these matters in which the DISTRICT and the municipalities could have financial interest.

10.6. Operate and maintain the Price Drain, at its sole expense, consisting of a bored tunnel with ancillary channels, outlets, collector pipelines, drop shafts and connecting pipelines from the vicinity of the Superstition Freeway at Price Road to an outlet into the Salt River, including headworks and a storm drain from the existing Carriage Lane detention basin, "CLO" connection to MESA's existing Broadway Road Storm Drain and connection to the Superstition Freeway Channel for drainage from MESA.

10.7. Following construction, the STATE will establish an operating and scheduling agreement, the terms and conditions of which shall be subordinate to this Agreement, with CHANDLER, and MESA to ensure mutual notification of controlled releases into the Price Drain and scheduled maintenance services.

11. To the extent permitted by law, the STATE, the DISTRICT, CHANDLER, and MESA agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims,

actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss damage to property of either party hereto or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the STATE, the DISTRICT, CHANDLER, or MESA their employees or agents. As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgement in the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts.

12. The DISTRICT agrees to pay accepted invoices for the DISTRICT's and the municipalities' proportional shares within forty-five days of receipt. For a period of one year following the date final payment has been received by the STATE, the records of the STATE relating to the costs billed pursuant to this Agreement shall be open for inspection and audit by authorized representatives of the DISTRICT during normal business hours.

13. The DISTRICT will, in turn, bill the CHANDLER and MESA quarterly for each municipality's proportional share of the costs, as defined in Paragraph 9 above.

14. CHANDLER and MESA each agree to pay the invoices from the DISTRICT within forty-five days of receipt.

* 15. Any party or parties desiring to use any of the 100 cfs of unallotted peak capacity of the Price Drain must purchase that capacity from the STATE and the DISTRICT based upon the actual construction costs including administration, design, construction, and construction management, and such purchase must be approved by the STATE and the DISTRICT. The 100 cfs of unallotted peak capacity shall be divided equally between the STATE and the DISTRICT until such time as it may be sold.

i.e. ADOT = 50 cfs ; RD = 50 cfs

16. Excess and/or off peak capacity of the Price Drain is allocated to the STATE, the DISTRICT, CHANDLER, and MESA as follows:

STATE - 70.7%	= 113
DISTRICT - 5.2%	= 8
CHANDLER - 10.3%	= 17
MESA - 13.8%	= 22
	<u>160</u>

off peak Avail. = 160 cfs

{ ADOT AND RD
700% allocations }

The STATE, the DISTRICT, CHANDLER, and MESA reserve the right to review and shall jointly review, negotiate and approve unanimously additions to uses of the joint system beyond the capacities listed in Paragraph 7 of this Agreement.

* 17. Prior to the engineering design of the conveyance from the Carriage Lane Basin to the drainage tunnel, all parties to the Agreement must concur in the capacity required. If the total design capacity is not required, the STATE and the DISTRICT will negotiate their cost sharing percentage on the basis of a reduced capacity.

18. CHANDLER and MESA each agree to construct and to operate and maintain, at each municipality's own cost, all facilities built to convey their stormwater to the Price Drain Inlet at the Carriage Lane Basin or to pipelines constructed downstream by the STATE.

19. All parties hereto acknowledge that this agreement is subject to cancellation by the Governor pursuant to the provisions of Section 38-511 of Arizona Revised Statutes.

20. This agreement shall remain in full force and effect as long as the Price/Pima Expressway is a part of the State Highway System and the STATE is using the facility for drainage purposes. This Agreement may be amended or terminated only upon written agreement of all parties.

21. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Section 12-1518 (B) and (C) of Arizona Revised Statutes, as amended.

22. Pursuant to Arizona Revised Statutes 11-952, as amended, attached to this agreement are copies of appropriate action by ordinance, resolution or otherwise authorizing the respective parties to enter into this agreement.

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

By: 

12-16-87
Date

Title: STATE ENGINEER

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY

Recommended by:

D. E. Sagramoso 10-6-87
D. E. Sagramoso, P. E. Date
Chief Engineer and General Manager

Approved and Accepted:

By: Thomas A. Greenstone
Chairman, Board of Directors
ACTING CHAIRMAN

Attest:

By: Cherie Pennington OCT 19 1987
Clerk of the Board Date

This Intergovernmental Agreement has been reviewed pursuant to Arizona Revised Statutes 11-952, as amended, by the undersigned General Counsel, who has determined that it is in proper form and within the powers and authority granted to the Flood Control District of Maricopa County under the laws of the State of Arizona.

[Signature]
General Counsel

10-5-87
Date

County of Maricopa

State of Arizona

Office of the Clerk

State of Arizona }
County of Maricopa } ss.

I, Cherie Pennington, Clerk of the Board of Supervisors

do hereby Certify That the attached is a true and correct extract
from the minutes of the Board of Directors' meeting held October 19, 1987:

CHAIRMAN AUTHORIZED TO SIGN IGA FCD 87004:

Motion was made by Mr. Pastor and unanimously carried to approve and authorize the Chairman to sign IGA FCD-87004 between the State, Chandler, Mesa, and the District for sharing the construction costs of Price Drain. The Price Drain is expected to cost between \$37.4 and \$47.4 million, and the District's share will be approximately \$8.43 million.

In Witness Whereof, I have hereunto set
my hand and affixed the Official Seal of the Board
of Supervisors. Done at Phoenix, the County Seat
this 12th day of November, 1987

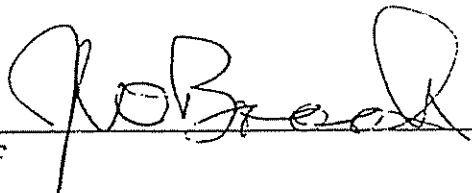
A.P.

Cherie Pennington

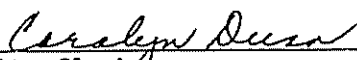
Clerk of the Board of Supervisors

Flood Control ✓
File


CITY OF CHANDLER

By: 
Mayor

Attest

By:  10/26/87
City Clerk cc ^{Date} 10/22/87

The foregoing agreement has been reviewed by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the City of Chandler under the laws of the State of Arizona.

 10-12-87
Chandler City Attorney Date

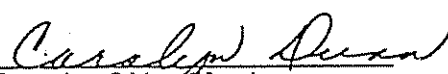


CITY OF CHANDLER
Office of the City Clerk

C E R T I F I C A T I O N

I, Carolyn Dunn, the duly appointed and acting Deputy City Clerk of the City of Chandler, Arizona, do hereby certify that the attached document entitled "Regular Meeting, October 22, 1987, page 11, is a true and correct copy of the Regular Minutes of the City Council meeting, City of Chandler, Chandler, Arizona, in which the Intergovernmental Agreement between the City of Chandler, the State of Arizona (ADOT), Maricopa County Flood Control District, and the City of Mesa, for the construction of the Price Road Drain was approved. The attachment is a copy of the documents of record which are on file in the office of the City Clerk.

Signed and sealed this 28th day of October, 1987.


Deputy City Clerk

S E A L

25. FLOOD CONTROL: PRICE DRAIN (88-132)

Staff recommended Council approve the revised Intergovernmental Agreement with the City of Chandler, Arizona Department of Transportation (ADOT), Maricopa County Flood Control District, and the City of Mesa for the construction of the Price Drain.

This deals with a joint-use drainage facility to be constructed from the Carriage Lane Retention Basin in Mesa to the Salt River along the Pima/Price Freeway alignment. Due to insufficient funds, the Town of Gilbert has now decided they do not wish to participate in the Price Drain. ADOT and the Flood Control District have agreed to pay what would have been Gilbert's share of the Price Drain between the Salt River and the Superstition Freeway because the construction of the drain in this reach critically impacts ADOT's construction schedule for the Pima/Price Freeway. The cost to the City of Chandler remains the same at \$2,780,000.

COUNCILMAN WALLACE asked if Chandler could purchase Gilbert's portion of the drain and how much more would that allow Chandler to grow; and MR. PFAHL said if Gilbert should default Chandler would have a chance to purchase Gilbert's portion. The additional drainage would double Chandler's drain capacity and add a number of square miles.

COUNCILMAN WALLACE asked what area was targeted next for drainage planning, and MR. PFAHL said west Chandler. In addition, he noted Gilbert must determine in 9 to 12 months whether they will use the drain.

MOVED BY COUNCILMAN HUPPENTHAL, seconded by COUNCILMAN WALLACE, to approve the revised Intergovernmental Agreement for the Price Drain with the City of Chandler, ADOT, Maricopa County Flood Control District, and the City of Mesa as recommended by Staff and authorize the Mayor to sign the document. MOTION CARRIED UNANIMOUSLY (7 to 0).

34. COMMUNITY DEVELOPMENT BLOCK GRANT: MARICOPA COUNTY COOPERATION AGREEMENT (CC 87-339)


This Maricopa County Cooperation Agreement is a request to authorize the option to exclude the City of Chandler from participation in the Maricopa County Community Development Block Grant program.

The City of Chandler has the option to be included or excluded from the Maricopa County Community Development Block Grant (CDBG) program. Inclusion within the Maricopa County CDBG program entails execution of a cooperation agreement which would be effective for the three-year period from September 12, 1988, through August 31, 1990. Exclusion from the County's program will enable the City of Chandler to obtain entitlement status and receive CDBG funds directly from the United States Department of Housing and Urban Development (HUD).

The U.S. Department of Housing and Urban Development expects that the City of Chandler will be formally designated as an entitlement community to receive CDBG funds directly from the Federal Government by September, 1988. This

ABG059

CITY OF MESA

By: 
City Manager

Attest

By: Grace M. Lobley 9-9-87
Acting City Clerk Date

The foregoing agreement has been reviewed by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the City of Mesa under the laws of the State of Arizona.

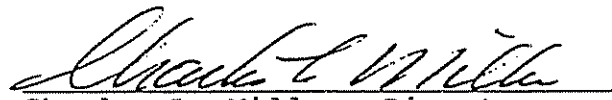
Neal Joseph Beits 9/9/87
Mesa City Attorney Date

PROJECT: RAM-600-1-507
SECTION: Price Drain

RESOLUTION

BE IT RESOLVED on this 17th day of June, 1987, that I, CHARLES L. MILLER, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona, that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Intergovernmental Agreement with the Flood Control District of Maricopa County for the purpose of establishing the cost sharing of the design, construction, construction management and of conducting the operation and maintenance of the Price Drain project.

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.


Charles L. Miller, Director
Arizona Department of
Transportation

WH:ks

0063e/

RESOLUTION NO. 5899

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MESA, MARICOPA COUNTY,
ARIZONA, AUTHORIZING THE CITY MANAGER
TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT
ON BEHALF OF THE CITY OF MESA WITH THE
ARIZONA DEPARTMENT OF TRANSPORTATION,
THE FLOOD CONTROL DISTRICT OF MARICOPA
COUNTY, THE CITY OF CHANDLER, AND THE
TOWN OF GILBERT.

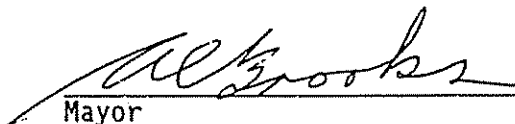
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA
COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Agreement for constructing a joint storm
water facility, known as the PRICE DRAIN, between the City of Mesa,
and the State of Arizona, acting through its Department of
Transportation, the Flood Control District of Maricopa County, the
City of Chandler and the Town of Gilbert, is hereby approved.

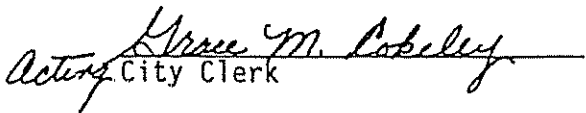
Section 2: That the City Manager is authorized and directed, on
behalf of the City of Mesa, to execute the agreement, and the City
Clerk is authorized and directed to attest to the signature of the
City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa,
Maricopa County, Arizona, this 8TH day of SEPTEMBER, 1987.

APPROVED:


Mayor

ATTEST:


Acting City Clerk



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KR 87-3501, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 28th day of December, 1987.

ROBERT K. CORBIN
Attorney General

Albert Meyer
Assistant Attorney General
Transportation Division